

Remarks:

Reconsideration of the application is requested.

Claims 1-14 and 21-22 remain in the application. Claim 1 has been amended.

In item 1 on page 2 of the above-identified Office action, the Examiner stated that "[i]t is noted that the applied prior art does not teach that the first conductive layer is unetchable by chemical dry etching."

In item 3 on page 2 of the Office action, claims 1-14 and 21-22 have been rejected as being indefinite under 35 U.S.C. § 112, first paragraph. More specifically, the Examiner has stated that the specification "does not reasonably provide enablement for 'forming a first conductive layer of a material which is substantially unetchable by chemical dry-etching'".

In item 4 on page 2 of the Office action, the Examiner stated that "[t]he specification recites that the first conductive layer is subjected to chemical/physical dry etching in a reactive ion etching process, which does not reasonably provide enablement for having the first conductive layer, which is unetchable by chemical dry-etching."

In item 5 on page 3 of the Office action, claims 1-14 and 21-22 have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph.

More specifically, the Examiner has stated that the "phrase 'forming a first conductive layer of a material which is substantially unetchable by chemical dry-etching' renders the claim indefinite because it is unclear whether the material of the first conductive layer is unetchable to any chemical dry-etching process or to a specific chemical dry etching."

The paragraph bridging pages 7 and 8 and the second paragraph on page 8 of the instant application, state:

Here, chemical dry-etching is to be understood as a customary chemical dry-etching using, possibly excited, halogens, hydrogen halides or halogenated hydrocarbons or using oxygen at customary temperatures and gas pressures. In addition, a material which is virtually impossible to etch by means of chemical dry-etching is to be understood to be a material which, under process conditions which are optimum for the respective material, has an etching rate of less than 1 nm/min. Correspondingly, a low etching rate is to be understood to be an etching rate which is greater than 1 nm/min under process conditions which are optimum for the respective material.

Since the material of the **first layer is virtually impossible to etch by means of a chemical dry-etching**, during a customary chemical/physical dry-etching the first layer is predominantly eroded by the physical part of the chemical/physical dry-etching. In contrast to this, during a customary chemical/physical dry-etching the second layer is also eroded by the chemical part of the chemical/physical dry-etching.

(emphasis added)

A literal reading of the claim language "substantially unetchable by chemical dry-etching" in view of the specification would suggest that the material of the first conductive layer is substantially unetchable by **any** chemical dry-etching process during a customary chemical/physical dry-etching using, possibly excited, halogens, hydrogen halides or halogenated hydrocarbons or using oxygen at customary temperatures and gas pressures.

The above-noted passage of the instant application contains the word "customary" three times before the phrases "chemical dry-etching" and "chemical/physical dry-etching". This is highly suggestive that the framers of the instant application believed that the chemical/physical dry-etching used in the present invention is "customary", and therefore known to a person skilled in the art.

Furthermore, in lines 9-18 on page 9 of the instant application, suitable materials for the first conductive layer are listed. Therefore, the instant application discloses which components or elements cannot be etched by the chemical part but which can be etched by the physical part of a "customary" chemical/physical dry-etching.

In order to have factual support for above-noted Applicants' arguments, enclosed with this response is a *Declaration under*

37 CFR 1.132 together with two references supporting the factual statements made in the *Declaration* under 37 CFR 1.132.

In the event the Examiner should find any deficiencies in the declaration, the Examiner is respectfully requested to telephone Counsel.

In order to expedite prosecution, claim 1 has been amended by adding the phrase "chemical-physical" before the phrase "dry etching".

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, Counsel would appreciate a telephone call during which the matter may be resolved. The above-noted change to claim 1 is provided solely for the purpose of satisfying formal requirements or is made solely for cosmetic reasons to clarify the claim. The changes are neither provided for overcoming the prior art nor does it narrow the scope of the claim for any reason related to the statutory requirements for a patent.

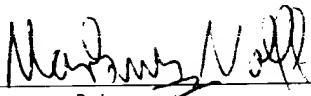
In view of the foregoing, reconsideration and allowance of claims 1-14 and 21-22 are solicited.

If an extension of time is required, petition for extension is herewith made.

Please charge any fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

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For Applicants

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Version with markings to show changes made:

Claim 1 (amended). A method of producing an electrode configuration, which comprises the following steps:

forming a first conductive layer of a material which is substantially unetchable by chemical dry-etching;

forming a second conductive layer on the first conductive layer from a material which is etchable by chemical dry-etching;

structuring the second conductive layer to form a structured second layer; and

chemical-physical dry etching the first conductive layer while using the second structured layer as a mask.